

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 24TH NOVEMBER 2006 / 3RD AGRAHAYANA 1928

Crl.Rev.Pet.No. 2918 of 2006()

**CMP.10540/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT,
IRINJALAKUDA**
.....

REVN. PETITIONER/COMPLAINANT:

SRI. MADHUSOODANAN,
S/O. CHERULLIYIL RAMAN, EDAMUTTOM DESOM,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

BY ADV. SRI.M.C.GOPI

RESPONDENTS/ACCUSED:

1. SRI. N. RAMARAJ, S/O. R. NARAYANAN,
KARUVELANKULAM, THAZHEKAD DESOM,
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.
2. SMT.R. PREMAVATHY, W/O. R. NARAYANAN
KARUVELANKULAM, THAZHEKAD DESOM,
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.
3. THE STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV. SHRI KAMMAPPU.

THIS CRIMINAL REVISION PETITION HAVING COME UP
FOR ADMISSION ON 24/11/2006, THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

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CRL. R.P. 2918 OF 2006

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Dated this the 24th November , 2006

O R D E R

This Crl. Revision Petition is filed by the complainant challenging the order dated 04.03.2006 in C.M.P.No. 10540 of 2005 on the file of the court of the Judicial Magistrate of the First Class. Irinjalakkuda. By the order impugned, the learned Magistrate dismissed the complaint under section 203 of the Code of Criminal Procedure.

2. The records in the case were called for to decide the question whether the Crl. Revision Petition deserves admission.

3. The trial court dismissed the complaint holding that the complainant has not filed a civil suit for specific performance of the contract and that for every breach of contract, a criminal liability will not arise. The offence alleged against the accused persons in the complaint are under sections 406, 417, 420, 468 read with 34 of the I.P.C. The court below proceeded on the basis, in paragraph 5 of the order, that the offence alleged is under section 420 alone, though in paragraph 1 of the order, other sections are also mentioned. A reading of the paragraph 5 of the order impugned would make it clear that the court below has not

considered fully the various averments and allegations made in the complaint. It is not proper for this court to consider those allegations now since those allegations were not considered by the trial court in the first instance.

4. In the result, the order impugned is set aside. The trial court shall dispose of the matter afresh after taking into account the averments in the complaint and sworn statement of the complainant and that of C.W.2. If the petitioner wants to examine any other witnesses, adequate opportunity should be granted to examine those witnesses. Revision Petitioner shall appear before the trial court on 18.12.2006.

Registry shall send back the records urgently.

**K.T. SANKARAN,
JUDGE.**

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